IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Crl.MC.No. 2467 of 2007()

CC.375/2006 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY

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PETITIONER: 3RD ACCUSED

C.K.MADHAVAN,
S/O. KOCHUKUNJU,
LAXMI PRIYA HOUSE,PERUNNA KIZHAKKU KARA,
CHANGANASSERY.

BY ADV. SRI.J.JAYAKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2467 Of 2007

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Dated this the 10th day of September, 2007

ORDER

The petitioner is the 3rd accused in a prosecution for the offences punishable,inter alia under Sections 406 IPC. Cognizance has been taken on the basis of a final report. The petitioner has appeared before the learned Magistrate. The matter has been posted for hearing. The prayer is to quash the charge/ final report. Charges have not been framed.

2. Having heard the learned counsel for the petitioner and having considered all the relevant inputs, I am of the opinion that this is a proper case where the petitioner must appear before the learned Magistrate and seek discharge at the stage of Sec.239/240 Cr.P.C. I have no reason to assume that the learned Magistrate would not consider the claim for discharge at the stage of Sec.239/240 Cr.P.C. Every court must do the same. The mere fact that there is a possibility of discharge/acquittal will not justify or persuade this Court to invoke the powers under Section 482 Cr.P.C. Persons who face indictment must ordinarily appear before the learned Magistrate and follow procedure prescribed in the

Code for premature termination of the proceedings.

3. This petition is in these circumstances dismissed with the observation that the petitioner shall be at liberty to claim discharge before the learned Magistrate at the stage of Sec.239/240 Cr.P.C. The learned Magistrate must consider such plea on merits and pass appropriate orders, on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE